

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814



January 14, 1992

ALL COUNTY LETTER NO. 92-08

TO: ALL COUNTY WELFARE DIRECTORS
ALL CHIEF PROBATION OFFICERS

SUBJECT: AID TO FAMILIES WITH DEPENDENT CHILDREN-FOSTER CARE
ELIGIBILITY FOR CHILDREN LIVING WITH TEMPORARY
LEGAL GUARDIANS (TIMMONS V. MCMAHON)

REFERENCE: ALL COUNTY LETTER NO. 91-13

The purpose of this All County Letter (ACL) is to inform you of a recent court decision (Timmons v. McMahon) that affected the Aid to Families with Dependent Children-Foster Care (AFDC-FC) eligibility of children placed with temporary legal guardians.

Effective immediately, any child who is otherwise eligible under the State AFDC-FC Program and is residing with a non-related legal guardian (temporary or permanent) may receive funding under this program.

BACKGROUND

Timmons v. McMahon states that the State Department of Social Services' (SDSS) regulations have unlawfully denied AFDC-FC payments to children living with temporary legal guardians. Since Welfare and Institutions Code (WIC) Section 11401 does not distinguish between temporary and permanent legal guardianships, this court decision mandates SDSS to notify County Welfare Departments that temporary legal guardians are eligible to receive AFDC-FC benefits on behalf of children under guardianship orders.

WIC Section 11401, subdivision (d) and 11402, subdivision (d) state that aid under the AFDC-FC Program is available on behalf of minors placed in a variety of settings, including those placed and living "in the home of a non-related legal guardian." In addition, WIC Section 11405 states that aid "shall be paid" to an otherwise eligible child living with a non-related legal guardian, provided the guardian cooperates with the county welfare department by developing (and updating every six months) a written assessment of the child's needs and carrying out the county's case plan for the child.

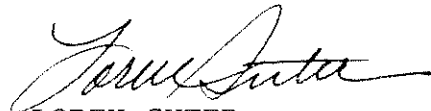
STATE AFDC-FC ELIGIBILITY

Because non-dependent children living with non-related legal guardians may be found eligible under the State AFDC-FC Program, the following Sections under the Eligibility & Assistance Standards Manual now apply to all non-dependent children living with non-related legal guardians, regardless of whether the guardianship order is temporary or permanent:

- o Deprivation (45-203.11);
- o With Whom a Child May be Placed (EAS 45-203.21);
- o Authority for Placement (45-203.312);
- o Eligible Facilities (45-203.411);
- o Placement and Care (45-203.51);
- o Special Provisions (45-203.61);
- o Payment Conditions (45-302-24)

Please refer to ACL 91-13 issued February 5, 1991 for other AFDC-FC eligibility requirements that relate to children living with legal guardians.

Should you have any questions regarding the AFDC-FC eligibility of children living with non-related legal guardians (temporary or permanent), please contact your Foster Care Program Consultant at (916) 445-0813.



LOREN SUTER
Deputy Director
Adult & Family Services Division

cc: CWDA